

REMARKS

Claims 1-49 were examined and reported in the Office Action. Claims 8, 24-30, and 39-49 are withdrawn. Note there was a typographical error on page 1 of the Office Action under section 4a asserting claims 4-49 are withdrawn. Claims 1-3 are rejected. Claims 1-2, 4-7, 9-18, 20-21, 23, 31-33 and 36-38 are amended. Claims 1-7, 9-23, and 31-38 remain.

Applicant requests reconsideration of the application in view of the following remarks.

I. Claim Objections

The Patent Office rejects claims 4-7, 9-23, and 31-38 under 37 C.F.R. §1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP §608.01(n). Accordingly, the claims have not been further treated on the merits. Applicant has amended the claims to overcome the 37 C.F.R. §1.75(c) objection.

Accordingly, withdrawal of the 37 C.F.R. §1.75(c) rejections for claims 4-7, 9-23, and 31-38 are respectfully requested.

II. 35 U.S.C. §112, Second Paragraph

The Patent Office rejects claims 1-3 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended claims 1-2 to overcome the 35 U.S.C. §112, second paragraph rejections.

Accordingly, withdrawal of the 35 U.S.C. §112, second paragraph, rejections for claims 1-3 are respectfully requested.

III. 35 U.S.C. §102(b)

It is asserted in the Office Action that claims 1-3 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,607,775 issued to Krause ("Krause"). Applicant respectfully disagrees.

According to MPEP §2131, "'[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990))."

Applicant's amended claim 1 contains the limitations of "... a first support element (100), a second support element (110) which is separate from said first support element (100), a structure (10) placed in tension between said two support elements (100, 110) and a rupture device (20, 30, 40, 50) associated with said structure in tension (10) so as to rupture said structure in tension on demand, characterized in that said device additionally comprises a beam (150) working in compression, inserted between said two support elements (100, 110) in parallel with the structure to be ruptured (10)."

Thus, Applicant's claimed invention has a second support element that is separate from the first support element. The structure to be ruptured is placed in tension between the two support elements. The rupture device is adapted to rupture the structure on demand. The beam is inserted between the two support elements in parallel with the structure to be ruptured. In other words, the beam is in contact with the two support elements. The beam works in compression, as a bridge, between the two support elements.

Krause relates to a device for cutting glass fibers. The device disclosed by Krause includes a first and second support element, a structure to be ruptured and a rupture

device. Krause, however, does not teach, disclose or suggest any means forming a beam inserted between the two support elements in parallel with the structure to be ruptured, nor any beams working in compression, as a bridge, between two support elements. Further, stressing member 9 disclosed by Krause is not: 1) inserted between the two support elements; 2) in parallel with the structure to be ruptured; and 3) in compression between the two support elements.

Therefore, since Krause does not disclose, teach or suggest all of Applicant's amended claim 1 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. §102(b) has not been adequately set forth relative to Krause. Thus, Applicant's amended claim 1 is not anticipated by Krause. Additionally, the claims that depend directly or indirectly on claim 1, namely claims 2 -3, are also not anticipated by Krause for the above same reason.

Accordingly, withdrawal of the 35 U.S.C. §102(b) rejections for claims 1-3 are respectfully requested.

CONCLUSION

In view of the foregoing, it is submitted that claims 1-7, 9-23, and 31-38 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

PETITION FOR EXTENSION OF TIME

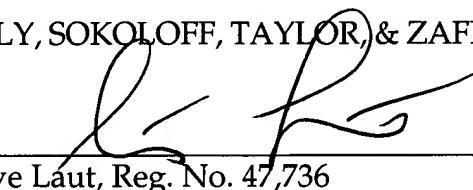
Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on TUESDAY, MARCH 4, 2003, Applicant respectfully petitions the Commissioner for a

one (1) month extension of time, extending the period for response to MONDAY, JULY 7, 2003 (JULY 4, 2003, being a holiday). The Commissioner is hereby authorized to charge payment to Deposit Account No. 02-2666 in the amount of \$110.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(2) large entity. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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Dated: July 3, 2003

By: 
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to: Mail Stop Fee Amendment, Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450 on July 3, 2003.


Margaux Rodriguez July 3, 2003